

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MERIDIAN FINANCIAL ADVISORS LTD)	
d/b/a The Meridian Group, as receiver for)	
OCMC, Inc.,)	
Plaintiff,)	
)	
vs.)	1:07-cv-995-LJM-TAB
)	
JOSEPH A. PENCE, et al.,)	
Defendants.)	

ORDER ON PLAINTIFF’S MOTION TO COMPEL DEPOSITIONS

On Friday, May 5, 2011, the Court denied Plaintiff Meridian Financial Advisor’s motion to compel additional documents from Bose McKinney & Evans, Price Waicukauski & Riley, and Defendant Joseph Pence, and extended the discovery deadline to May 19. [Docket No. 530.]

The next Monday, Plaintiff sought deposition dates by the revised May 19 deadline for BME’s Jeff Gaither, PWR’s Jana Strain, and PWR’s Ron Waicukauski, and for 30(b)(6) depositions of BME and PWR. [Docket No. 532, Ex. A.] Gaither responded that he was available on May 18, but BME would not be available for a 30(b)(6) deposition before May 20 because it would need more time to prepare. [Docket No. 532, Ex. C.] Waicukauski responded that he would be available on May 19, but Strain would be unavailable the week of May 16. [Docket Nos. 532, Ex. B; 535 Ex. E.] Waicukauski opposed a 30(b)(6) deposition of PWR on the grounds that Meridian had not given the notice required by Local Rule 30.1(c). [Docket No. 532, Ex. B.]

Plaintiff moved to compel the deposition of Strain and the 30(b)(6) depositions of BME and PWR. [Docket No. 532.] Plaintiff argues that these depositions are “necessary for [it] to submit a complete and comprehensive response to the fee claim” and explains that it did not notice these depositions sooner because it was awaiting the outcome of its motion to compel.

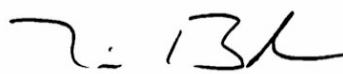
[Docket No. 532 at 3–4.] Alternatively, Plaintiff seeks an extension of the discovery deadline to no later than June 17.

The Court’s May 5 order denying Meridian’s motion to compel reflected a setback for Meridian’s attempt to conduct broad discovery into Pence’s fee application. Meridian’s request for broad depositions fares only slightly better. As to the 30(b)(6) depositions, given the short notice and the Court’s prior statements that Meridian’s concerns are “not grounds for additional discovery” [Docket No. 530 at 6], the depositions of Jeff Gaither (BME’s managing partner) and Ron Waicukauski (PWR partner) must suffice.¹ By agreeing to the Gaither and Waicukauski depositions on short notice, Pence reasonably accommodated Meridian’s discovery needs. Additional time-consuming 30(b)(6) depositions would be overkill, especially because many of the proposed topics coincide with document requests the Court found inappropriate in its May 5 order.

Jana Strain, however, was highly involved in Pence’s motion for sanctions, and her only objection to being deposed was that she would be unavailable the week of May 16. The parties shall attempt in good faith to find a mutually convenient time to depose Strain by May 28.

Plaintiff’s motion to compel [Docket No. 532] is granted in part.

Dated: 05/17/2011



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

¹Pence raises Local Rule 30.1(c), which requires 14 days’ notice for a deposition, as a bar to these depositions. Under the circumstances, it was reasonable for Meridian to wait until after the Court’s May 5 order to notice depositions. Pence was previously aware of Meridian’s desire to depose counsel, and Meridian noticed the depositions promptly after receipt of the Court’s May 5 order.

Copies to:

George William Bills Jr.
LAW OFFICE OF G. WILLIAM BILLS,
JR.
gwilliamsbills@yahoo.com

Jeffrey R. Gaither
BOSE MCKINNEY & EVANS, LLP
jgaither@boselaw.com

Kathleen A. Gallagher
ECKERT SEAMANS CHERIN &
MELLOTT LLC
kgallagher@eckertseamans.com

Sandy B. Garfinkel
ECKERT SEAMANS CHERIN &
MELLOTT, LLC
sgarfinkel@eckertseamans.com

Gregg Heinemann Jr.
ECKERT SEAMANS CHERIN &
MELLOTT, LLC
gheinemann@eckertseamans.com

Max W. Hittle Jr.
KRIEG DEVAULT, LLP
mhittle@kdlegal.com

Carol Nemeth Joven
PRICE WAICUKAUSKI & RILEY
cnemeth@price-law.com

Thomas Livingston
OFFICE OF THE FEDERAL PUBLIC
DEFENDER
thomas_livingston@fd.org

C. Kent May
ECKERT SEAMANS CHERIN &
MELLOTT, LLC
kmay@eckertseamans.com

Craig Morris McKee
WILKINSON GOELLER MODESITT
WILKINSON & DRUMMY
cmmckee@wilkinsonlaw.com

Stephen S. Stallings
STALLINGS LLC
sstallings@stallings-law.com

Jana K. Strain
GEIGER CONRAD & HEAD, LLP
jana.strain@gch-law.com

Ronald J. Waicukauski
PRICE WAICUKAUSKI & RILEY
rwaicukauski@price-law.com

Ann Marie Waldron
awaldron@rwylaw.com

John H. Williams Jr.
ECKERT SEAMANS CHERIN &
MELLOTT, LLC
jwilliams@eckertseamans.com

SCOTT HALL
308 Blue Quail Ct.
Bedford, TX 76021